

DRAFT CONSERVATION COMMISSION MINUTES
WEDNESDAY, MARCH 7, 2007 – 6:45 PM
CATA CONFERENCE ROOM
3 POND ROAD
MAX SCHENK, CHAIRMAN

MEMBERS PRESENT

Charlie Anderson
William Febiger
Robert Gulla
Ann Jo Jackson
Arthur Socolow

MEMBERS ABSENT

Max Schenk

STAFF PRESENT

Nancy Ryder, Conservation Agent
Carol Gray, Recording Clerk

CPA Alliance – Presentation

A presentation was done by Kathy Leahy and Sandy Ronan, representatives of the Community Preservation Coalition re: Community Preservation Act.

Packets of information were submitted to all members of the Commission.

Ms. Leahy noted to the Commission that this is an opportunity for Gloucester to obtain matching funds for 1. Open Space (and recreation), Historic Preservation, and Community Housing.

The basics of the Act are as follows:

Local Adoption needed, establishes up to a 3% surcharge on local property taxes,

Requires 10% of monies to be spent on each of the 3 categories, allows flexibility for the remaining 70% in each of the 3 categories (including recreation), not a permanent commitment and includes matching funds from the state.

A dedicated trust fund through the Registry of Deeds is created for the matching funds.

Re: Amending or repealing the CPA can be made at any time using the same procedures available for passage of the Act. After five years the Act can be repealed at any time using the same procedures available for passage of the Act.

Exemptions from the CPA surcharge are as follows:

Any existing tax exemptions apply to CPA

Additional possible exemptions: First \$100,000.00 of property value – exempts the first \$100,000.00 of residential property value from the surcharge, property owned and occupied by a person who qualifies for low-income housing or for low- or moderate – income senior housing and all commercial and industrial properties.

Examples were given as to what this means to the City of Gloucester and its residents.

It was noted that the annual amount contributed to the CPA Fund for the most expensive home in Gloucester (quoted at \$6.2 million), would be \$1,076.00.

Peabody and Rockport were two locations noted that have adopted the CPA.

The CPA was proposed in 2001 and was not approved by the City.

The members of the Commission followed along with the presentation from the documents that were given out. Mr. Febiger enters the meeting at 7:10PM.

Ms. Leahy noted that if the City of Gloucester had adopted the CPA in 2001, 4 to 6 million dollars would have come back to the City but instead was distributed to the other 119 communities in Massachusetts.

She went on to say that the adoption would provide balanced solutions for the finances in the City as well as creativity presenting beauty and a better quality of life.

A Preservation Committee would be created by The City of Gloucester with a member of the Cons. Comm. on the Committee as that is required by the Act.

Ms. Leahy stated that she would like to have the Cons. Comm. endorsement on the Act.

She further noted a cost to residents of the City of approx. \$53.00 through the Registry of Deeds and added on to the property tax bills.

Mr. Socolow asked if that was an additional tax to be paid and Ms. Leahy stated it is considered a surcharge on the property tax.

Mr. Gulla inquired as to who appoints the Preservation Committee, and what is the discretion of the 70%. Ms. Ronan noted that the matching funds would only go to the three concerns previously listed (Open Space (and recreation), Historic Preservation and Community Housing. Ms. Leahy noted that the funds cannot be tapped for any other purpose.

Mr. Febiger inquired as to when the meetings would be held and how often with Ms. Leahy stating that the meetings are held several times a year. She further noted that the funds do not have to be distributed every year but can accumulate over time.

Mr. Gulla inquired as to why the Act did not pass previously and Ms. Ronan responded stating that she felt there was not enough education to the residents.

Ms. Leahy noted that the Mayor and the City Council gave a favorable response but as of yet have not endorsed the Act.

Ms. Jackson noted the 3% and asked if that was needed to pass and Ms. Leahy responded no.

Ms. Ryder noted that the 2nd round of distribution is a little less fair, a disproportionate amount.

Ms. Leahy noted that monies can be spent on administration fees, whatever they may be.

Ms. Ryder noted that state wide, cities seem to be rejecting the adoption of the Act.

Mr. Socolow asked if the surcharge would be attached to the tax bill and Ms. Leahy stated yes and it's a surcharge not a tax.

Mr. Socolow stated that anything added to the property tax bill, added to the rejection of it in 2001 and now as well.

Ms. Jackson shares in Mr. Socolow's concerns but that doesn't stop the Commission from review and consideration.

Ms. Leahy noted that residents who can least afford it would be exempt.

Mr. Gulla inquired as to other than the Cons. Comm. representative who else would be on the Preservation Committee. Ms. Leahy noted a citizen initiative and the City Council added it to the ballot.

Ms. Ryder stated that if the Commission endorses the Act a note needs to reflect why the Cons. Comm. endorses it with a case in point sheet listing reasons why the Cons. Comm. endorses it and noted for the public.

Mr. Gulla main concern was not so much the tax rate but the mismanagement of funds derived from the Alliance.

Ms. Ryder agrees re: the public's perception re: the allocation of funds. She further suggested that the Cons. Comm. could be accessible with an office set up for the public to go to for information.

Mr. Anderson noted that 70% is at the discretion of the government, the City Council has the ultimate vote. The monies cannot be spent on anything else other than the 3 categories listed. Mr. Febiger noted that people may be upset with the 70% discretion. Ms. Leahy quoted the Act in re: how the allocation of funds is to be distributed. Mr. Socolow noted that Community Housing is not the issue of the Cons. Comm. and the Commission would endorse it because it would provide for something that we deal with (open space) not other things. Mr. Gulla noted that the letter would state exactly what the Cons. Comm. would endorse, open space. Ms. Ryder stated that she hopes the Commission would adopt the Act. Mr. Socolow stated that the critical thing here is, is this going to cost me more – all other reasons fail if you have to say yes. Mr. Anderson stated that he was at the previous business meeting regarding the Act, with business people, and he feels they will be strongly against it. Ms. Leahy stated that businesses are not totally exempt but can be. Ms. Jackson asked if the Comm. would be endorsing this matter this evening or is more information needed and consideration of endorsement another night. Mr. Socolow stated that there is a need to specify what the monies will provide re: Conservation items. It was suggested that a letter be drafted through The Agent's office. Mr. Febiger noted that there are a broad range of purposes regarding "open space". Ms. Ryder noted acquiring and maintaining but not administrative duties re: funds. She will put something together and Ms. Jackson noted that at a future meeting a decision can be made. Ms. Ryder notes this can be done at the next meeting: 03/21/07 7:00 PM.

CLOSURE OF HEARINGS, REVIEW OF FINAL INFORMATION, AMENDMENT AND SIGNING OF PERMITS/DECISIONS

11 JEBEKA LANE

REQUEST FOR A CONTINUANCE TO 03/21/07 9:00 PM.

Notice of Intent

Ms. Ryder notes this being a full slot at 9:00 PM.

MOTION: Mr. Gulla moves to continue the matter to the above date and time.

SECOND: Mr. Anderson **VOTE:** 5-0 all in favor

124R MAGNOLIA AVENUE

REQUEST FOR A CONTINUANCE TO 03/21/07 7:05 PM

The Agents notes that no storm water management plan has been submitted to the State.

MOTION: Mr. Socolow moves to continue the matter to the above date and time.

SECOND: Mr. Gulla **VOTE:** 5-0 all in favor

201 ESSEX AVENUE

Notice of Intent – **REQUEST FOR A CONTINUANCE TO 03/21/07 7:05 PM**

The Agent informed The Commission that no storm water management plan to The Engineering Dept as of yet.

MOTION: Mr. Gulla moves to continue the matter to the above date and time.

SECOND: Mr. Socolow VOTE: 5-0 all in favor

25 WYOMA ROAD

Notice of Intent – Draft decision ready.

The Agent stated that they are looking for a modified NoI.

A condition: agreement in re: to lawn space, minimal with 2 to 1 mitigation and dune grass planting.

MOTION: Mr. Febiger SECOND: Mr. Anderson

VOTE: 5-0 signed by all members present.

MAGNOLIA AVENUE (Map 193, Lots 35 & 44)

Draft decision ready.

This was approved at the last meeting, with reservation.

Boundary delineation for B series approved.

Ms. Ryder read from the document and passed the document along for signing by the Commission members.

PUBLIC COMMENT – This time is devoted to members of the general public to address any issues they may have that are not on this evening's agenda
No public comments.

SAM PARK (Map 262 Lots 13 & 14 Map 43 Lot 4)

A filing under the City of Gloucester Wetlands Ordinance to construct mixed use development and access road off Rte. 128 Extension behind Fuller School.

REQUEST FOR CONTINUANCE TO 03/21/07 10:00 PM.

MOTION: Mr. Anderson moves to continue the matter to the above date and time

SECOND: Mr. Febiger VOTE: 5-0 all in favor

UPDATE ON 3RD PARTY REVIEW PROCESS W/CDM, PLANNING AND ENGINEERING

Ms. Ryder noted that The Commission has voted previously on this matter and that we are in the phase of putting a contract together. She further stated that it has been disappointing so far as information had not been completed and that work was done AT the meeting.

BROOKS ROAD

Docks and Piers

Notice of Intent came in today.

Public Hearing scheduled for the next meeting.

BENNETT STREET

BMP issue. The Agent stated that a letter was sent to the contractors. This could be up for an enforcement order at the next meeting.

462 ESSEX

The submission of the NoI was incomplete but is incoming and will likely be on the agenda for 4/4/07. Ms. Ryder states the NoI was almost blank.

RIGGS POINT ROAD 14, 16 AND 18.

In regards to the grinder pumps at locations 14 and 18 they froze and into the ocean.

The Agent updates the Commission on the work her asst. Hannah is actively working on. Hannah is working on follow up and a written status summary for the enforcement and violation sites. She is planning to come to a meeting and make a presentation to the Commission in April. (She is working on many pro-active education and outreach projects and will discuss those with the Commission as they progress as well.)

LETTER PERMIT REQUESTS

BRIERNECK SEWER PROJECT ON THATCHER ROAD

City of Gloucester - Blasting in the street for sewer lines.

The Agent states they are asking for a permit within the buffer zone.

There is a submission of blasting protocol, pre – blasting surveys.

Blasting would be done within the roadway at Thatcher Road.

Ms. Jackson noted that this is adjacent to the marsh.

The Agent stated that she was not OK with it but if they need to do it there is no other choice.

They have to shut down May to October. Restraints from the City Council note: 2 months in the spring and 2 months in the fall.

MOTION: Mr. Gulla moves for a Letter Permit for blasting

SECOND: Mr. Febiger

VOTE: 5-0 all in favor

BRIERNECK SEWER PROJECT STAGING AREA

The location would be the paved area at Good Harbor the months of: April, May, October and November. The letter permit is for the storage of materials at that location.

MOTION: Mr. Gulla moves to approve the letter permit for storage of materials

SECOND: Mr. Anderson

VOTE: 5-0

GROVE STREET

This is a request for GCC re: build ability of property off Grove Street.

The Agent notes Tom Lynch and Cutter and Cutter in relation to a property dispute.

Most of the site in question is Wetland with little pavement and tax relief is the issue.

Mr. Socolow noted this being listed as non build able, where would something be built.

Ms. Ryder stated she didn't know how that all worked.
Mr. Febiger inquired as to parking.
Ms. Ryder noted that they cannot build there and could only build if the Wetland were to dry up.
All Wetland and 21E could never support construction at this location.
Mr. Gulla inquired as to some type of Conservation restriction
and Ms. Ryder stated that would alleviate her concerns.
If they put Conservation restrictions and the Cons. Comm. agreed, that would save in taxes. Ms. Jackson noted the City Office and someone heard differently.

35 LAUREL STREET

Porches and stairs 28-1419

The Agent notes the site and stated that the house being on a hill, shifted and stairs and they forgot to put in the stairs and porch. The farmers porch is outside the buffer zone.

Before the Commission is a raised porch, 2nd floor with a stone patio underneath.

This is outside the no disturbance zone and 60 to 70 ft. from the Wetland line.

Mr. Gulla stated that this seems pretty simple with Ms. Jackson in agreement.

MOTION: Mr. Gulla moves for a Letter Permit

SECOND: Mr. Febiger VOTE: 5-0 all in favor

32 POPLAR STREET

Re: repair to stream bank from City storm water pipe

The Agent recaps the issue with the Commission:

Trees were cut and dog pen shifted.

The City owned the drainage pipe and the bank was eroded.

A discussion was had re: an Enforcement Order

An Engineering letter permit request would restore the bank and if they don't do RDA and notice - the owner has to incur the expense.

A replication plan is to be put in place.

A letter permit request regarding the stream bank repair.

Ms. Ryder further noted that a Wetland Scientist could help with drafting a letter.

She further stated that they want to remove the pool and was advised to leave the pool at this time and in regards to the garage, it can be included in mitigation.

MOTION: Mr. Anderson

SECOND: Mr. Socolow VOTE: 5-0

Discussion regarding submitting a proposal to the City Council requesting that Chapter 12, section 12-23 of the Code of Ordinances be amended to allow the Conservation Commission to enforce the provisions of Chapter 12 through the noncriminal disposition law as set forth in MGL c. 40 section 21D.

Ms. Ryder notes the MACC model Ordinance – revised 2006 version and revised fee schedule. The form to be used as a template for the Ordinance.

The Agent notes that it is different and that the Commission should make sure it is the one you want to use. She requested that the Commission members e-mail her after all have read it as she would like to list this issue on the April agenda.

She had a discussion with Dave Sargent re: a ticketing ordinance but that it is hard to implement. The ticketing procedure allows the City 200 tickets every single day, summoned by the Court not the Commission, with the monies going to the City.

The benefit to this is a more instance response and is similar to the Parking Ticket process. The Commission would consider this and make a recommendation to the City Council.

Ticketing done by:

Conservation Commission, Ms. Ryder (as the Agent),
Hannah (Agent's Asst.) and Dave Sargent.

Mr. Gulla stated he had concerns about Commission members enforcing the Ordinance and ticketing.

Ms. Ryder did note it could be abused. She further stated that the Commission could be left out of the process of enforcement and ticketing.

Ms. Jackson noted that in re: to a letter, the Commission could recommend ticketing but in regards to the issuance of tickets, that could be left up to:

Ms. Ryder and/or her asst. and Dave Sargent and/or his asst.

Mr. Febiger inquired as to a Commission member issuing an Enforcement Order.

Ms. Ryder stated yes, but must be voted on by all Cons. Comm. members first.

Ms. Ryder further noted that the ticket as an alternative to an Enforcement Order could simplify things if done right, with Mr. Gulla in agreement.

The Commission members will review all the information.

MOTION: Mr. Febiger moves to continue the matter for further discussion until 03/21/07 10 PM
SECOND: Mr. Anderson
VOTE: 5-0 all in favor

KEYSTONE ROAD

Motion to dismiss and petitioner's opposition to motion to dismiss.

Jim McKenna - filed a motion to dismiss.

DEP will take it under the pre-screening process and thoughts are that they will dismiss the case. DEP found in support of the Commission.

6 WATERSIDE

An SoC visit was done with the Agent and Ms. Heidi Davis present.

The Agents notes having to appeal to Superior Court, and if this is going to ZBA it will be tied up for years.

In regards to a site visit at Hutchins Court, 3/20/07 9:30 AM - Ms. Ryder – recused,

Ms. Jackson – recused,

Mr. Schenk is not available, Mr. Gulla – recused.

35 DURY ROAD –

It was noted that the decision by the Commission was upheld.

Handout – The Agent passed along to all members present a list of roads in the City of Gloucester that have flooding issues. She asked that they all keep the list with them for the meetings.

Geothermal well and water heat pump wells information-

Mr. Socolow noted that being a very good installation, that it was being used in other parts of the country and very successful. He further stated that it offsets energy costs.

Mr. Gulla will review the packet of information.

Ms. Ryder noted she would look into emailing.

Ms. Ryder has one copy of the Geothermal information and Mr. Socolow will review it.

NE Wildflowers –

Land Manager Report re: Dragon's Mouth in Lower Vivien Swamp

The Agent noted this to be an endangered species and noted 3 plants in 2002.

Affordable Housing vs. Open Space article by Mark Bobrowski –

Ms. Ryder notes this as being a good article and hard copies are available.

MOTION: Mr. Gulla moves to recess for 5 minutes

SECOND: Mr. Febiger VOTE: 5-0 all in favor

9PM – The Conservation Commission meeting resumes

31 RIVER ROAD (Map 118, Lot 9) **NEW**

Hope Winthrop to reconfigure existing seasonal floats.

William Manuell rep. the applicant.

Mr. Manuell notes this being an existing float and notes the Chapter 91 License regarding this project for the seawall, with solid fill behind the seawall, granite supports to the float system in an existing T configuration. The applicant is buying another boat.

Mr. Manuell stated it is a minor configuration wanting the F instead of the T configuration, which adds 24 sq. ft. of float.

Re: Waterways and the float, needs to amend Ch. 91 license and have it signed off by the Conservation Commission.

An OoC was approved 2 years ago by the Commission and an OoC would be needed now, allowing the float in the new configuration.

Regarding concerns about grounding out Mr. Manuell stated that would not be a problem as it is in permanent water, in between two marinas.

Mr. Socolow asked about clamming in the area and Mr. Manuell noted, in the cove are recovering clam beds.

Mr. Manuell noted 49 River Rd and a new float being approved, with standoffs and it did bottom out.

Mr. Anderson asked how much water is underneath and Mr. Manuell noted possibly 1 or 2 feet.

Mr. Manuell further stated that the existing float is a T configuration now.

The Commission members review the packet of information.

Mr. Manuell stated that the float would be removed seasonally.

Mr. Febiger inquired as to where the float would be stored and Mr. Manuell stated he was not sure. Mr. Febiger asked if it would be stored on the marsh and Mr. Manuell stated he did not know.

Mr. Manuell submitted to DMF but no response as of yet.

Ms. Ryder noted that they don't always respond.

Mr. Anderson noted through DMF 2 ½ ft. standoffs and wonders if 1 ft is cutting it a little thin and Mr. Manuell noted that they were adding 24 sq. ft, the area is dredged, and there would be a 31 ft. long ramp.

No comments from Dave or Jim.

Ms. Jackson asked why the float would have two protrusions and Mr. Manuell noted that possibly for storage, a kayak, fishing gear, etc., with the other one for access.

Ms. Jackson states she would like to hear from Dave regarding this plan with Mr. Anderson and Mr. Febiger in agreement. Mr. Socolow and Mr. Gulla had no comments.

MOTION: Mr. Anderson moves to continue the matter until 03/21/07 7:20 PM

SECOND: Mr. Socolow

VOTE: 5-0 all in favor

46 LEVERETT STREET (Map 162 Lot 13) **NEW**

Christine Peterson to demolish dwelling and construct a new dwelling.

Mr. Jim Harkin, rep. the applicant presents the plan.

He notes the NOI for the OoC and the damage by the fire in 2006.

The new structure is somewhat larger in the footprint. The new: 1100 sq. ft, plus some revisions to be made after speaking the Agent. The top of the slope indicates that the entire lot is within the buffer zone. He noted a perimeter drain.

He further noted that the erosion control lines were hay bales and that he would take them out and put in a filter sock.

Ms. Ryder noted a concern re: delineation and that the top of the bank was not shown.

The hay bale line was within coastal bank.

ZBA is to meet re: this matter tomorrow evening (Thursday).

Mr. Gulla inquired as to the vegetation on site and Ms. Ryder stated it is mostly lawn.

Mr. Harkin stated it is upland and possibly ledge.

Mr. Gulla inquired as to trees being removed and Ms. Ryder stated no, it is a heavily used lawn.

Mr. Socolow inquired as to bio retention and Mr. Harkin stated that it is the same perception as infiltrated dry wall. He further noted a planted swale.

Ms. Ryder notes information in LAD packet from UNH.

The Agents items needed: details re: the patio and Engineering review.

Construction sequence and details have already been submitted.

Mr. Febiger noted that the topographical lines are not noted on the plan.

Mr. Harkin stated that the contour lines would be in place on the next edition of the plan.

Mr. Gulla inquired as to parking and/or driveway.

Mr. Harkin stated it would be a driveway and no plans to alter that.

Ms. Jackson inquired as to this being a removal of a house and reconstruction.

Mr. Harkin stated yes.

Mr. Socolow inquired as to dumpsters on site.

Mr. Harkin stated that debris would be placed in dumpsters, a backhoe is to be used and this would be approx. 3 days work.

Old structure: 800 sq. ft. New structure: 1100 sq. ft.

The bump out stays and not to be reconstructed.

Ms. Jackson noted that details of that would be helpful to the Commission.

Mr. Gulla noted that the patio seems to encroach and a suggestion of pulling it back a bit.

The Agent noted that she always likes to see it pulled back, noting it to be more linear.

Mr. Harkin noted flagstones with a wall.

The issues for the plan to address at the next meeting:

Contours, coastal bank, replacement of hay bales, dumpster in place, details re: patio, details re: bump out.

MOTION: Mr. Gulla moves to continue the matter to 03/21/-7 8:30 PM

SECOND: Mr. Socolow VOTE: 5-0 all in favor

70 HOLLY STREET (Map 123, Lot 70)

Mary Ann Wenniger to construct a single family home.

James McKenna, Esq. rep the applicant presented a brief opening to the Commission.

He stated that he appreciates Ms. Ryder as the Agent as she has worked very cooperatively with him and the applicant.

Mr. McKenna stated that they have adjusted the plan to have a single family home and studio, yet retain trees on site, and canopy. The trees for concern are being kept.

He further noted the installation of dry wells in the patio area and that this is an improvement from the original plan. The deck is eliminated and the studio has expanded, with an additional 4 ft away from the disturbance area. The house was brought back a couple of feet.

He further noted this project being a nice partnership with Ms. Ryder, Agent for the Commission.

Ms. Mary Rimmer noted that she and the Agent met at the site this morning.

She notes the limited work area on the plan and that the limit of work is 2 ft closer to the site, which has been moved back to meet the set back line.

There was 2 ft taken off one side of the house. She noted the plan and stated there is no impact to the Ash tree.

Ms. Rimmer further stated that they realigned the driveway to save a tree.

She points out that included in the plan are 3 dry wells at the patio and maintained a surface swale. The original foundation had a storage area which has been increased.

She further noted the use of a stacked boulder retaining wall as opposed to the previous design of versa lock. A masonry wall will support the patio.

Mr. Steve Sawyer, Oak Eng. notes the plan re: mitigation in relation to the stacked boulder wall.

Mr. Febiger inquired as to steps going down and Mr. Sawyer stated yes, that steps going down would access the walking path.

Mr. Socolow inquired as to soil being between the boulders for planting.

Mr. Sawyer stated that soil would be between the boulders and brought in if necessary.

It was further noted that the square footage of the studio now is 19 ft wide by 17 ft. deep vs. 12 ft wide and 17 ft. deep and also pulled back 4 ft.

Ms. Jackson noted this being about 120 sq. ft larger.

The Agent notes a site visit today. She further notes the limit of coastal bank on the plan and land subject to coastal flooding. She recommended a requirement be made re: limit of work in regards to the wall, considering limiting construction to 5 ft. She further noted the taking of the whole boulder or it being chipped, as well as the dead tree in the front, already permitted for removal. Trees are not to be damaged.

Mr. Gulla noted the plan in regards to erosion.

Mr. Sawyer stated that the perimeter drain is just a trickle.

Mr. Gulla stated he found it acceptable, working perfectly and why was it a problem before this.

Ms. Rimmer stated that maybe there was a gap. She further stated that the plan was tweaked a bit resulting in a smaller developed envelope.

Mr. Socolow: Acceptable

Mr. Anderson: No further comments.

PUBLIC COMMENT: none

Mr. Gulla noted paths being cut and Ms. Rimmer said it would be staked out.

Conditions: limited work re: the stonewall, limiting construction to 5 ft. at northern end of the property, tree near to the studio remain, path to resource area staked out prior to final issuance of the OoC, to be approved by the Agent.

Ms. Rimmer noted the conditions and this being prior to cutting the trail.

Ms. Jackson asked that the specific width be noted as well as no tree cutting and no major bush cutting. She further inquired as to the type of woodchips.

The Agent inquired as to the sign off with Eng. re: storm water.

Ms. Jackson further noted the specifications of the woodchips: playground chips.

Engineering review needed.

MOTION: Mr. Febiger

SECOND: Mr. Gulla

VOTE: 5-0 all in favor to be signed now by all members present utilizing a blank version with the Agent typing in the pertinent information.

All members signed. Further noted: If the Eng. does not approve this the applicant will have to come back for a full amendment.

70 POPLAR STREET (Map 1126 Lot 2) **NEW**

Gloucester Housing Authority to conduct culvert replacement over Alewife Brook to Poplar Park at 70 Poplar Street.

Mr. Phi Deagan, Gloucester Housing Authority stated that about 1 year ago there was an approval for a temporary bridge. One condition noted: Replacement for existing culvert that has failed. He is working with the Army Corp. of Engineers, The Fisheries Dept., Dave Sargent, Joe and Nancy, having meetings and reviews.

Ms. Ryder notes the plan and replacing the culvert in kind, with the reason being to not increase the stream. If we keep the same size we won't impact downstream.

The Engineering Dept. and the DPW agree.

Discussed were the steel pipe arch and twin culverts (42 inches around). This being a double barrel design switching water from one to the other during construction allows for the restriction of flow. A benefit to this is the replacement of 2 storm water catch basins.

Replace the invasives with natural plantings. The applicant is working with one of the abutters. A bridge rail was noted as well as the sidewalks being ADA compliant. The sewer and water lines are to be replaced.

Ms. Ryder appreciates the reasons but has concerns such as there being no additional stream crossing and no study to back up the some of the above discussion. Recommendations regarding this issue don't support the plan. She further noted that the stream is a shellfish growing area. Comments from Dave Sargent were sent to all Commission members.

DEP notes that 50 inch replaced with 42 inch is not equivalent. Nancy Hanes states yes it is equivalent and Ms. Ryder stated it is not equivalent and she completely disagrees.

Ms. Ryder notes that there is not enough information to justify the project as designed.

Mr. Febiger noted the design and it meeting the Army Corp of Eng. standards.

Ms. Ryder notes the box culvert.

Mr. Gulla noted that the existing pipes are too small and that stones are in the pipe.

He further inquired as to what the budget is for this project.

Nancy Hanes stated \$250,000.00 to imbed the pipes with a natural bottom.

Ms. Ryder notes a grant funded by Coastal Zone Management at over \$200,000.00.

Mr. Gulla stated that this design goes against everything the Commission sees that is coming back to them.

Mr. Socolow had no comment at this time.

Mr. Febiger inquired as to the range of sizes of culverts.

Ms. Ryder noted a span bridge and recommendations from DPW.

Mr. Gulla stated that this is basically another drain. Coastal Zone Management wants to free the stream up.

Mr. Deagan stated that the stream has not flowed freely for decades.

Ms. Ryder notes the sludge lagoons and a permit application coming before the Commission soon to remove sludge.

PUBLIC COMMENT: none

Ms. Jackson stated that a study is needed.

Nancy Hanes asked if this needs to be done all the way up and that she needs the scope of this.

Ms. Jackson stated that the Commission needs her to prove her point.

Nancy Hanes stated she did not know the extent of the cost of this.

Ms. Ryder asked if she had talked with Eric Hutchins as there is funding available.

Mr. Deagan asked if there point is not proved, where do we go from there?

Ms. Hanes denotes the Army Corp. of Eng. note in the packet.

Ms. Ryder states that a complete replacement is considered new construction, not an Army Corp of Eng. issue. There are separate environmental guidelines, entirely different review.

Ms. Hanes inquired as to the City Engineer coming in.

Ms. Ryder notes the Engineer as being a hostile witness and someone outside the City is needed.

DPW runs the Eng. Dept. so it would not be unbiased.

Ms. Ryder notes that she will set up a meeting to include herself, Eric Hutchins and Nancy Hanes.

MOTION: Mr. Febiger moves to continue the matter until 04/04/07 7:30 PM

SECOND: Mr. Anderson

VOTE: 5-0 all in favor.

465 WESTERN AVENUE (Map 200 Lot 8) **NEW**

This is a hearing to discuss violations that have occurred. The hearing will include discussion and possibly a vote regarding restoration remediation and any other action the Commission may require of the property owner, including issuance of an enforcement order and administrative penalties.

The Agent notes September of 2006 ANRAD issued. Letter Permit to remove a bottling shed which uncovered a spring that was never capped and excavation done into the stream bank.

Commissioners read stabilization plan. This came back in as a NoI re: the stream bank.

The applicant was given a couple of months after the restoration and never came back and Ms. Rimmer was never paid.

Ms. Ryder stated she was allowed on the front on the property but not allowed in the back area of the property. Issues: NoI not filed, no response from the property owner and no permanent plan re: the stream. Recommendation: Enforcement Order and fines.

The Commission reviews the plan. Ms. Ryder notes areas of impact and excavation.

She further notes that they bulldozed the Wetland. There has been no response whatsoever from the property owner.

Mr. Socolow inquired as to the property owner (Mr. Gigaloni , sp.) being asked to appear this evening and

Mr. Ryder stated yes.

Mr. Gulla asked if work has stopped at this time.

Ms. Ryder notes that there is no way of knowing if they are working in the resource area out back. She noted to the Commission that an Enforcement Order should be filed and get DEP involved.

PUBLIC COMMENT:

Margaret Wheeler notes that the area is the old Ravenswood Spring Bottling Company.

She further stated that the spring, in a concrete pit, has been leveled and the pit filled in.

Michael Ramos produced photos and Ms. Jackson asked if the Agent could use the photos for future consideration.

Mr. Ramos stated that he has never had a water issue before but now the pit is filled in and water bubbles up in his yard. He further stated that trees that the property owner chopped down as well as the stumps were taken away by dumpster. C. Hurst gave the property owner permission to go along the property line.

Ms. Ryder notes that she does not have the legal right to be there.

Mr. Ramos notes that because they called it a public road he had to get a variance to build a garage. He further noted that it is a shady deal going on out there.

Ms. Jackson asked that it be written down any comments, observations and dates of the Sundays' work was been done on the property.

Mr. Ramos said he had something in process including photographs.

Ms. Jackson further noted that the more specific documentation you can provide, the better.

Mr. Ramos stated that his neighbors cellar floods consistently.

Ms. Ryder notes that the Health Dept. needs to go out there and comment.

Ms. Jackson asked if anyone else would like to speak briefly on this issue and/or would like to comment in writing.

Mr. Ramos stated that he knew of an elderly female resident of the City would like to comment but was unavailable to attend this evening. Ms. Jackson stated that the Commission welcomes her comments and anyone else who would like to submit something in writing.

Ms. Ryder stated that the property owner was told last year to correct these issues. Enforcement Order prepared.

Ms. Jackson stated that fines would be a good idea with Mr. Gulla in agreement.

Ms. Ryder notes that if any Civil Action is taken information already in the file will help the case. The Agent notes that under The State Wetland Protection Act the fine is \$25,000.00 per violation per day, with violations starting today.

Mr. Socolow inquired as to the fines issued by both local and state.

Local: \$2000.00 and State: \$25,000.00. Ms. Ryder stated both can be imposed.

Violations: BVW, Stream bank, Stream and Buffer < considered (1) one violation.

Mr. Febiger inquired as to removing or reducing fines if restored.

Ms. Jackson notes that an ANRAD states no damage to spring and Ms. Ryder notes that being local not state.

Ms. Jackson suggests we go forward with this.

Mr. Socolow states that it should be noted in the Enforcement Order, fines daily, \$25,000.00 per violation, per day until such time as he completely restores the damage done.

Ms. Ryder notes 2 issues: the spring issue and the stream bank and BVW.

Mr. Ramos shows photos to Ms. Ryder only: spring, stream and brook. He also notes the filled in area.

Mr. Gulla asked if there was anyone else they could contact.

Ms. Ryder notes a civil action against the property owner, Mr. Tony Gigeloni (sp).

She notes A14, 15 and 16 on the plan. In the Wetland resource area he impacted the pond.

MOTION: Mr. Gulla moves to put the Enforcement Order in place and fines as above noted along with Gloucester Wetland Ord. \$2000.00 fine per day, 2 violations.

1. The spring 2. Personal choice land use

Violations please reference: 12-10-1, 12-10-2, 12-10-3 = \$2000.00 each until restored to the original condition at such time the Commission will then consider reducing the fines.

SECOND: Mr. Febiger VOTE: 5-0

Mr. Anderson discussed a meeting he attended of the (ACFHP) Atlantic Coastal Fish Habitat Partnership. This is in the process of bringing together in a partnership state, local and others, to include an inventory of fish and habitat to remediate and restore lost habitat. Monies are available for any partners that would like to do a project. Mr. Anderson has signed on as a partner and the next meeting is in Washington, DC.

Mr. Socolow departs the meeting.

MOTION: Mr. Gulla moves to adjourn the meeting

SECOND: Mr. Anderson VOTE: 4-0 all in favor

Respectfully submitted, Carol Gray Recording Clerk